

### **REMARKS**

Claims 1-60 are pending. Claims 20, 38 and 51 have been amended. Support for the amendment to Claim 20 can be found in paragraph 40 of the instant published application US 2005/0097613. Support for amendment to claim 38 can be found in paragraph 45 and 70 of the instant published application. Support for the amendment to claim 51 can be found in originally filed claim 1. No new claims have been added, canceled or withdrawn.

Applicants have carefully studied the outstanding Office Action. The present Response is intended to be fully responsive to all points of rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of this application is respectfully requested. Applicants respectfully request reconsideration and withdrawal of the Examiner's rejections in view of the foregoing amendments and following remarks.

### **Examiner Interview**

An interview was conducted with examiner Thomas Dailey, inventor Richard Dean and attorney for applicant Chad Walter, on November 3, 2008. The interview occurred via telephone and focused on the independent claims, proposed amendments and the Hohenacker reference. No agreements were reached in the interview.

### **Claim Rejections - 35 USC § 102**

Claims 1-3, 5-6, 8-9, 13, 16, 20-23, 26-27, 30-31, 34, 38-40, 43-47, 49, 51-54, 57, and 59-60, are rejected under 35 U.S.C. 102(b) as being anticipated by Hohenacker.

**RESPONSE:**

Applicants submit that the Hohenacker reference fails to teach or suggest the claim limitation of “an audio and video player to preview said recorded performance.” Paragraph 91 of the Hohenacker reference (US 2005/0100311) discloses a recording unit that can be fitted with a preview function that makes it possible for after hours persons to view stored video data, comparatively fast with reduced image quality. The Hohenacker reference is very specific that the preview is not only lacking sound, but also has a “reduced image quality.” Further, at paragraph 43, the Hohenacker reference teaches that the video data can be subjected to “later processing” and can be “put together” or synchronized with picked up audio data. Consequently, the Hohenacker reference clearly fails to teach or disclose an audio player, which is a claimed limitation of the present invention. Consequently, in view of this, the applicants respectfully request that the examiner withdraw the rejection as to claims 1-3, 5-6, 8-9, 13, 16, 51-54, 57 and 59-60.

Regarding claims 20-23, 26-27, 30-31 and 34, the applicants have amended claim 20 to better clarify the intent of one embodiment of the claimed invention and that includes the limitation that the studio user categorize the recorded performance. Applicants submit that paragraph 79 of the Hohenacker reference merely discloses informing a user of an opportunity to make a presentation and further submits that there is no hint of categorizing the presentation. Consequently, in view of the above, applicants respectfully request that the examiner withdraw the rejection as to claims 20-23, 26-27, 30-31 and 34.

Regarding claims 38-40, 43-47, 49, 51-54, 57 and 59-60, applicants have amended the specification to better claim the intent of one embodiment of the present invention. Hohenacker teaches away from the present invention, because Hohenacker teaches that the recording occur in

a public place, such as a square or street or in a building as disclosed by paragraph 5. Further, because Hohenacker teaches an open kiosk type venue, Hohenacker teaches the necessity of hiding the camera to ensure that the camera is protected from vandals. See paragraph 27. Consequently, in view of the above, applicants respectfully request that the examiner withdraw the rejections as to claims 38-40, 43-47, 49, 51-54, 57 and 59-60.

#### **Claim Rejections - 35 USC § 103**

The examiner has rejected claims 10-11, 28-29, and 41-42 by taking official notice under MPEP 2144.03 that claimed limitations would have been an obvious modification to one having ordinary skill in the art.

#### **RESPONSE:**

Applicants respectfully traverse these rejections.

Regarding claims 10 and 28, applicant would point out that the Hohenacker reference teaches away from an enclosed studio, let alone a soundproof studio. Consequently, for at least this reason, applicants respectfully request that the rejections be withdrawn.

Regarding claims 11 and 29, applicants would point out that the Hohenacker reference fails to teach or suggest an audio player that would allow a studio user to preview, for purposes of comparison, two recordings. Consequently, for at least this reason, applicants respectfully request that the rejections be withdrawn.

Regarding claims 41 and 42, applicants would point out that the Hohenacker reference fails to teach or suggest the collection of demographic information and therefore would not be obvious to tie such information to a subscription. Consequently, applicants respectfully request rejections be withdrawn.

Regarding claims 4, 7, 12, 14-15, 17-19, 24-25, 32-33, 35-37, 48, 50, 55-56 and 58, which are rejected as being unpatentable over Hohenacker in view of Chacker (US Patent No. 6,578,008), applicants submit that all limitations are not provided in either reference. For example, neither the Chacker nor the Hohenacker includes a limitation of an audio player to preview a recorded performance prior to transmission of the recorded performance to a studio site, as required by claims 4, 7, 12, 14-15, and 17-19. Consequently, for at least this reason, the applicants respectfully request that the examiner withdraw the rejection as to these claims.

Similarly, the remaining claims all depend on independent claims that are novel and unobvious for reasons stated above. Consequently, in view of the above, applicants respectfully request the examiner withdraw the rejections.


### CONCLUSION

It is respectfully urged that the subject application is patentable over the references cited by Examiner and is now in condition for allowance. Applicants request consideration of the application and allowance of the claims. If there are any outstanding issues that the Examiner feels may be resolved by way of a telephone conference, the Examiner is cordially invited to contact Vincent Allen or Chad E. Walter at 972-367-2001.

The Commissioner is hereby authorized to charge any additional payments that may be due for additional claims to Deposit Account 50-0392.

Respectfully submitted,

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